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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

In re SIERRA C., a Person Coming Under
the Juvenile Court Law.

CONTRA COSTA COUNTY CHILDREN
& FAMILY SERVICES BUREAU,

Plaintiff and Respondent,

v.

ROBERT C.,

Defendant and Appellant.

A145490, A146936

(Contra Costa County
Super. Ct. No. J14-00134)

In these consolidated appeals, Robert C. (Father) appeals from an order returning his daughter, Sierra C., to her mother’s physical custody at a 12-month review hearing, as well as the juvenile court’s subsequent “exit order” terminating jurisdiction and awarding the mother sole legal and physical custody (Welf. & Inst. Code, § 362.4).¹ In connection with the latter exit order, the juvenile court ordered supervised visitation with Father, on

¹ Undesignated statutory references are to the Welfare and Institutions Code. An “exit order” refers to a juvenile court’s decision to terminate dependency jurisdiction and issue a custody order pursuant to section 362.4. (*Bridget A. v. Superior Court* (2007) 148 Cal.App.4th 285, 300.) Section 362.4 provides, in relevant part: “When the juvenile court terminates its jurisdiction over a minor who has been adjudged a dependent child of the juvenile court prior to the minor’s attainment of the age of 18 years, and . . . an order has been entered with regard to the custody of that minor, the juvenile court on its own motion, may issue a protective order . . . and an order determining the custody of, or visitation with, the child.”

the condition that he bear the cost. Father contends the juvenile court abused its discretion. We affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

Section 300 Petition

When Sierra was five years old, in February 2014, the Contra Costa County Children & Family Services Bureau (Bureau) filed a dependency petition on her behalf. The petition alleged Robyn G. (Mother) and Father had created a substantial risk of serious physical harm (§ 300, subd. (b)) by engaging in domestic violence in Sierra's presence. The parents had engaged in anger management and domestic violence counseling and education during a prior dependency case (closed in May 2012), but "the parents' relationship continues to be plagued by domestic violence." Sierra was detained with her maternal grandmother.

Jurisdiction Report and Hearings

Mother reported to the social worker that she had been sober for two and a half years. She completed an outpatient substance abuse program in August 2012. At the conclusion of the 2012 dependency case, Father obtained sole physical custody of Sierra. After reportedly obtaining a modified family court order in August 2012, Mother moved back in with Father and Sierra.

According to Mother, the parents reverted to violence in November 2013, when Father brought a drug dealer to Thanksgiving dinner. Mother and Father engaged in a physical confrontation over the guest's presence in the home and the police were called. Father said Mother started the incident by pushing him. Eventually Mother went to her room to cool down. According to Father, Sierra was in the bathroom during this incident. A few minutes later the police arrived. Father and his guests denied that Father had approached Mother with a knife and hit her. Mother was arrested but charges were later dropped. Mother moved out of the home. Approximately one month later, Father asked Mother to return because he was sick and needed help caring for Sierra.

Another incident of domestic violence occurred on February 1, 2014. Sierra corroborated Mother's account of that incident. Sierra reported: "Dad slammed my mom

against the wall, two times in the bedroom and one time in the living room. He took me out to the truck. He put me in the truck and the cops came and put him [in handcuffs]. . . . I went to stay at grandma's. I was crying for my mom. I felt sad and cried.” In response to the February incident, Mother sought a restraining order against Father and was referred for domestic violence counseling. Mother was not troubled by the new dependency petition because she felt “ ‘a lot of things need to be straightened out.’ ”

Father's account of the February 2014 incident of domestic violence differed in that he reported Mother slammed a door and hit him on the back of the head while he carried Sierra out to his car. However, he admitted violating a restraining order and having consumed one alcoholic beverage. Father expressed concern that Mother did not consistently take her psychotropic medication, yelled at Sierra, and was not attentive to the child's needs.

The jurisdiction hearing was held on February 14, 2014. Mother did not contest the allegations and the juvenile court sustained the petition as to her, and continued the jurisdiction hearing as to Father. Thereafter, Father submitted on the allegations of an amended petition, which stated simply that, despite the services provided in the prior dependency, he had engaged in domestic violence in the presence of Sierra.

Disposition Hearing

In a disposition report filed June 6, 2014, the Bureau recommended family reunification for both parents. The Bureau reported Mother began drinking alcohol in high school and using methamphetamine and cocaine in her 20's. At age 36, however, Mother had been in recovery for almost three years. Mother also had a history of depression and was involuntarily hospitalized in 2007 and 2011, following suicide attempts. Mother was currently employed, participating in a domestic violence support group, and taking antidepressant medication.

The disposition report also documented Father's physical abuse and abandonment as a child and his use of drugs (specifically cocaine) in his 20's. Father acknowledged domestic violence in his relationship with Mother. He said the police were called to their home many times, which usually resulted in one of them leaving or Mother's

hospitalization. In a subsequent memo to the court, the Bureau recommended substance abuse treatment and a psychological evaluation for Father because of positive drug tests and his “erratic and paranoid behavior in e-mail, phone, and in-person contact” with the Bureau.

Sierra was living with her maternal grandmother and engaged in therapy. Sierra’s therapist reported that Sierra was “scared of the memories [of her parents’ fighting] and is still trying to process what she experienced.” However, her symptoms had already been reduced as a result of living in a stable environment. The Bureau stated its concern that the parents would not abstain from contact with each other and might expose Sierra to more violence.

At the disposition hearing, Sierra was ordered removed from her parents’ custody and placed with the maternal grandmother. Reunification services and supervised visitation were ordered for both Mother and Father. Mother’s case plan required her to complete a domestic violence prevention program and a parenting class, participate in individual therapy, stay sober, and comply with required drug testing. Father’s case plan was similar, although he was also ordered to undergo a full psychological evaluation.

Six-Month Review Hearing

In the Bureau’s six-month review report, the social worker recommended continued reunification services for both parents. Father initially engaged in his case plan, but he stopped participating after he lost his job and housing. He missed several drug tests, and he wrote numerous e-mails to the social worker, up to eight in one day, exhibiting increasing anxiety and paranoia. His behavior seemed indicative of underlying mental health issues.

Meanwhile, Mother had dealt with an unrelated sexual assault by obtaining a restraining order and relocating to a confidential shelter. She maintained her employment, was participating in services and therapy, and consistently tested negative for drugs and alcohol. In therapy, Sierra expressed sadness about separation from her parents. The therapist noted Sierra “seems to really care for her parents and does not display any negative emotions in regards to them.”

In a report update filed January 14, 2015, the social worker noted Father attempted to drive his car into the maternal grandmother, her son, and Sierra in the maternal grandmother's driveway. Father reported he was attempting to commit suicide and never intended to hurt anyone but himself. He said he turned his car away when he saw people outside of the home. Thereafter, Father's visitation was suspended and the maternal grandmother obtained a restraining order prohibiting Father from contact with Sierra "unless ordered by Juvenile Court and/or approved by [the Bureau]."

At the six-month review hearing, the juvenile court ordered therapeutic supervision of Father's visitation and continued reunification services for both parents.

Twelve-Month Review Report

In its 12-month review report, the Bureau recommended return of Sierra to Mother's home, termination of services to Father, and provision of family maintenance services to Mother. Father missed numerous random drug tests since the last report and his participation in his case plan was minimal. Father's psychological assessment had been completed, and it was recommended that he be monitored closely for homicidal or suicidal ideation as the dependency case progressed.

Mother, on the other hand, had not missed any tests during the review period and all results had been negative. She completed a parenting class, attended a domestic violence support group, and showed "decreased needs" in individual counseling. Mother maintained her employment and moved to a larger shelter home with other women and a shelter staff member. The home was assessed for overnight visitation by the social worker and found to be adequate for Sierra.

Mother began unsupervised visits with Sierra in January 2015, and then overnight visits in March 2015. The visits were reported to be going well. Sierra continued to do very well in all areas of her life and received glowing reports from her therapist and school. The social worker reported that, if family maintenance services were ordered, Mother made arrangements to provide consistency for Sierra. Sierra would continue in her kindergarten class until the end of the school year and spend afternoons with her

maternal grandmother until Mother finished her workday. Sierra would also continue therapy and supervised visitation with Father.

Twelve-Month Review Hearing

At the contested review hearing, the social worker testified Mother had been compliant with her case plan. Mother continued to test clean and had stable housing in a shelter inspected by the social worker. Sierra's therapist and the maternal grandmother saw no evidence of distress after Sierra began overnight visits with Mother.

Father expressed opposition to returning Sierra to Mother's custody. When asked for details, Father testified his opposition was based on his "past history of watching [Mother's] style of parenting and just the proper care of the child as far as nutrition, keeping a nice, peaceful, calm household and uncluttered household." He also testified: "I would come into the room, Sierra would be . . . lying on her back throwing up, and [Mother] would yell at her instead of picking her up and get her over onto her stomach She'd be yelling that [Sierra] puked all over the bed, and that's not cool. [¶] And just the cleanliness, the leaving of dirty dishes and food on them and . . . a child shouldn't be raised on crackers and candy and stuff like that on a normal basis, I don't think. [¶] [Mother] has a tendency to fly off of the handle pretty quick. I might have been part of that maybe. I don't know."

Father was aware Mother had been diagnosed with depression. Mother was taking medication until October 2013, but she told him she stopped taking it. In the past, Mother "would [often] go into a depression" and be unable to function for three or four days in a row, leaving him to "deal with everything." Father believed Mother maintained sobriety for only about 120 days.

Father also stated his concern about Mother's ability to support Sierra. Father acknowledged that Mother was a "great employee," but he was concerned that she would stop working and her only income would be social security. On cross examination, Father admitted he had not lived with Mother since November 2013, and he did not have any current information regarding her parenting.

On April 24, 2015, the juvenile court ordered Sierra returned to Mother's custody with continued court supervision and family maintenance services. The court explained: "I have carefully considered the report and the testimony provided today. [¶] It is clear to me that [F]ather is concerned about his child, and he focused in on some of the history that [M]other has. I've considered that history. I've considered [F]ather's testimony. [¶] I also consider the progress [M]other has made. It is clearly not the time to vacate and dismiss the case. It's clear that [M]other needs the services of the [Bureau]. But it is clear to me that [M]other is ready for family maintenance, and the child will be safe at this time." The court also reserved the issue of Father's reunification services.

On May 18, 2015, the court continued Father's supervised visitation and ordered three additional months of reunification services. The juvenile court modified the April 24, 2015 placement order to correct an inaccurate reference to section 361.2. It was agreed that Sierra was returned to Mother's care under section 366.21, subdivision (f), and subject to the juvenile court's continuing supervision under section 364.²

Status Review Report and September 2, 2015 Hearing

In a memorandum dated August 18, 2015, the Bureau recommended Father receive no further services. Father no longer had housing and asked the social worker for a referral to an inpatient substance abuse treatment program. However, Father both

² Section 364 provides in relevant part: "(a) Every hearing in which an order is made placing a child under the supervision of the juvenile court pursuant to Section 300 and in which the child is not removed from the physical custody of his or her parent or guardian shall be continued to a specific future date not to exceed six months after the date of the original dispositional hearing. [¶] . . . [¶] (c) After hearing any evidence presented by the social worker, the parent, the guardian, or the child, the court shall determine whether continued supervision is necessary. The court shall terminate its jurisdiction unless the social worker or his or her department establishes by a preponderance of evidence that the conditions still exist which would justify initial assumption of jurisdiction under Section 300, or that those conditions are likely to exist if supervision is withdrawn. Failure of the parent or guardian to participate regularly in any court ordered treatment program shall constitute prima facie evidence that the conditions which justified initial assumption of jurisdiction still exist and that continued supervision is necessary."

denied currently using drugs and continued to fail to appear for drug testing. Although he completed domestic violence counseling and parenting programs, the social worker concluded Father “ha[d] not demonstrated any progress in his ability to safely parent Sierra.” Father continued to be “very paranoid and hostile” in his contact with the social worker. He believed the maternal grandmother and the Bureau were conspiring “to make him unsuccessful in his case.”

Father had weekly therapeutically supervised visitation with Sierra, which the Bureau wished to reduce to one hour, twice monthly. Sierra, “‘engaged readily with [Father], maintained eye contact and expressed enthusiasm about engagement’ ” with Father. The therapist described Father as affectionate and attuned to Sierra. At the end of visits, Sierra “gives hugs over and over, and does not want contact to end.”

At the status hearing on September 2, 2015, Mother’s attorney reported that Sierra was acting out after visits with Father, and she joined in the Bureau’s request to reduce Father’s visitation. Sierra’s attorney, however, reported that Father’s visits were going well in the safeguarded setting. In fact, Sierra desired more frequent visits with Father. The juvenile court declined to reduce Father’s visitation and maintained the prior visitation order. Father’s reunification services were concluded.

Family Maintenance Review Report and October 2, 2015 Hearing

In advance of the October 2, 2015 family maintenance review hearing, the Bureau reported Mother and Sierra had moved out of the shelter and were renting a room in a home with a friend. The home was inspected and approved by the social worker. Mother followed all court orders and requests made by the Bureau, continued to test negative for drugs and alcohol, completed a parenting class and was close to completing her domestic violence program, developed an understanding of the issues that brought the family to the attention of the juvenile court, and expressed her desire to prevent the issues from reoccurring. Mother’s individual therapist reported Mother had developed a revulsion to alcohol and drugs. He did not see her relapsing. Sierra was thriving in Mother’s care and was described as “a very smart and confident girl, who was doing great in school, swimming, and is no longer in need of therapy.” Accordingly, the Bureau recommended

the juvenile court vacate and dismiss the dependency and grant Mother sole legal and physical custody.

The Bureau also recommended continued supervised visitation for Father. The supervising therapist had no concerns about Father's behaviors in front of Sierra and stated it was no longer necessary for Father's visits to be in a therapeutic setting. However, the therapist believed visits should continue to be professionally supervised.

On October 2, 2015, when the status review hearing was called, Father initially was not present in court. Mother submitted on the Bureau's recommendation. Sierra's counsel believed it was time to vacate and dismiss, but expressed some concern as to how the parents would manage and arrange Father's visits, given reciprocal restraining orders. In his absence, Father's trial counsel requested the matter be set for a contested hearing. Father appeared moments later and the court recessed to allow Father time to consult with his attorney.

Following the recess, Father's counsel informed the court Father had decided to forego a contest and to submit the matter with "comments." Father "preserved" his prior objections related to the placement of Sierra with Mother. With respect to visitation, Father objected to a recommendation that he arrange and pay for supervision. Father's counsel noted: "[Father's] financial situation is fairly dire. At this point he is terminated. He lost his last job, and he has a new job that he is just starting . . . now as a cook. And his income is quite low, and so that is going to be difficult for him financially."

Following these comments, the juvenile court vacated and dismissed the dependency and issued a final custody order, awarding sole legal and physical custody to Mother, with professionally supervised visitation for Father. The juvenile court found, by clear and convincing evidence, that return to Father's custody would create a substantial risk of detriment. Father's visitation was ordered to be "reasonable" or "for a minimum" of one hour, twice per month. The "professional supervisor" was "to be arranged and compensated" by Father.

Father filed two timely notices of appeal—one from the April 24, 2015 order placing Sierra with Mother (No. A145490) and one from the October 2, 2015 exit order (No. A146936).³

II. DISCUSSION

Father challenges both the April 24, 2015 order returning Sierra to Mother's physical custody and the October 2, 2015 exit order as abuses of the juvenile court's discretion. We reject both arguments and affirm.

A. *April 24, 2015 Placement Order*

Father contends that the juvenile court failed to exercise informed discretion in returning Sierra to Mother's care with family maintenance services. Specifically, Father complains that the juvenile court gave too much weight to Mother's current circumstances and participation in her case plan, and failed to adequately consider Mother's mental health history, the adequacy of her housing, the impact of moving Sierra from the maternal grandmother's home, or whether Mother would be able to stay free of domestic violence. Despite the Bureau's assertion to the contrary, we assume Father preserved the instant argument by contesting the Bureau's recommendation that Sierra be returned to Mother's physical custody. On the merits, however, we agree with the Bureau that the juvenile court did not abuse its discretion.

At the 12-month review hearing, Sierra was to be returned to Mother's custody *unless* the opposing party established return "would create a substantial risk of detriment to [her] safety, protection, or physical or emotional well-being." (§ 366.21, subd. (f)(1)).⁴

³ Both orders are appealable as orders after judgment. (§ 395, subd. (a)(1).) Concurrent with filing his reply brief in appeal No. A145490, Father filed a motion to consolidate that case with appeal No. A146936. By separate order, the appeals have been consolidated for the purposes of decision. (See *Sampson v. Sapoznik* (1953) 117 Cal.App.2d 607, 609.) In appeal No. A145490, Father also asked for judicial notice of the exit order. We deny the unopposed request as unnecessary because the order is contained in the record for appeal No. A146936.

⁴ Initially, Father raised an additional argument challenging the court's statutory basis for the placement order, which he has now abandoned.

“That standard, while vaguely worded to be sure, must be construed as a fairly high one. It cannot mean merely that the parent in question is less than ideal, did not benefit from the reunification services as much as we might have hoped, or seems less capable than an available foster parent or other family member.” (*David B. v. Superior Court* (2004) 123 Cal.App.4th 768, 789.) “We are looking for passing grades here, not straight A’s.” (*Id.* at p. 790.) “[T]he question whether to return a dependent child to parental custody is not governed solely by whether the parent has corrected the problem which required court intervention; rather, the court must consider the effect such return would have on the child. If returning the child will create a substantial risk of detriment to his or her physical or emotional well-being [citations], placement must continue regardless of whether the detriment mirrors the harm which had required the child’s removal from parental custody [citations].” (*In re Joseph B.* (1996) 42 Cal.App.4th 890, 894.)

We review a juvenile court’s detriment finding for substantial evidence. (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 763.) “We review the evidence most favorably to the prevailing party and indulge in all legitimate and reasonable inferences to uphold the court’s ruling. [Citation.] ‘ “Substantial evidence” is evidence of ponderable legal significance, evidence that is reasonable, credible and of solid value. [Citation.]’ [Citation.] ‘Inferences may constitute substantial evidence, but they must be the product of logic and reason. Speculation or conjecture alone is not substantial evidence.’ ” (*Tracy J. v. Superior Court* (2012) 202 Cal.App.4th 1415, 1424.) When, as here, we are asked to apply the substantial evidence standard to a juvenile court’s implicit negative finding—that the evidence does not support a finding that returning the child to the parent would create a substantial risk of detriment—we affirm the court’s determination absent “indisputable evidence” of detriment or “evidence no reasonable trier of fact could have rejected.” (*In re Sheila B.* (1993) 19 Cal.App.4th 187, 199–200.)

Father relies on *In re John M.* (2006) 141 Cal.App.4th 1564 to support his contention insufficient evidence supported the juvenile court’s finding. In *John M.*, the noncustodial father appealed from a dispositional order *denying* his request for placement under section 361.2. (*Id.* at pp. 1567–1569.) Under section 361.2, subdivision (a), the

juvenile court was required to place the child with the noncustodial father unless the social services agency proved by clear and convincing evidence such a placement would be detrimental. The reviewing court reversed, concluded that any “paucity of information” about the noncustodial father did not support a detriment finding. (*Id.* at p. 1571.) The court explained: “We understand why the court was reluctant to place [the child] with [the noncustodial father] when very little was known about [the father] other than his lack of a criminal record. What the court should have done was continue the hearing, leaving [the child] in his temporary placement for the period of time necessary to gather information about [the father].” (*Id.* at p. 1572.)

In re John M. does not support Father’s argument. Here, Mother was not a noncustodial parent in a different state who could be characterized as “ ‘an unknown entity.’ ” (*In re John M., supra*, 141 Cal.App.4th at p. 1568.) Rather, the juvenile court had before it ample evidence of Mother’s significant progress in remedying the issues underlying Sierra’s dependency. Mother had been clean for over three years, obtained a restraining order against Father, was attending individual therapy and a domestic violence support group, and had created an independent life for herself and Sierra. Mother’s home had been inspected by the social worker and, we can infer from the Bureau’s recommendation, found appropriate and safe. Contrary to Father’s assertion, the fact Mother lived in a shelter home is not determinative of anything. (See *David B. v. Superior Court, supra*, 123 Cal.App.4th at p. 792.)

We are no more persuaded by Father’s suggestion that indisputable evidence of detriment is shown by Mother’s history of depression. “ ‘Harm to the child cannot be presumed from the mere fact of mental illness of the parent’ ” (*Tracy J. v. Superior Court, supra*, 202 Cal.App.4th at p. 1424.) The juvenile court was not compelled to believe Father’s testimony that Mother had stopped taking prescribed medication in October 2013. Rather, the juvenile court was free to make its own credibility determinations and rely on more recent evidence that Mother had progressed in individual therapy and was taking antidepressants. Therapist reports indicated no reason to believe Mother’s history of depression was creating any current risk to Sierra.

Furthermore, this case is nothing like *In re Joseph B.*, *supra*, 42 Cal.App.4th 890, in which the juvenile court abused its discretion by returning a minor to his mother's physical custody under section 366.21, subdivision (f). (*Joseph B.*, at pp. 893–894.) In that case, the social worker opined: “ ‘To remove [the minor] from [his grandmother's] home would frustrate his growing sense of independence and self-worth, injure his sense of security, and would eventually result in increased anger toward his mother and father. To remove [the minor] would prove detrimental.’ ” (*Id.* at p. 895.) The juvenile court in that case found return posed a grave emotional risk to the child, but erroneously believed it could not deny return on a reason unrelated to the original basis for jurisdiction. (*Id.* at pp. 893–894, 896.)

Here, the juvenile court made no such finding and had no similar evidence before it. There was evidence that Sierra's increased contact with Mother, including overnight visits, had been going well, as well as evidence suggesting Mother was clearly attempting to lessen any disruption to Sierra. Mother had complied with the Bureau's reunification case plan, removed herself from a violent relationship with Father, maintained sobriety for three years, obtained acceptable housing, and was managing her mental health. Notwithstanding Father's request for us to reweigh the evidence, the juvenile court's “no detriment” finding is supported by substantial evidence.⁵

B. *October 2, 2015 Exit Order*

In his appeal from the exit order, Father contends the juvenile court's visitation order constitutes an abuse of discretion. He concedes the court did not abuse its discretion by requiring supervised visitation, but he challenges the order that he bear the cost for it. We review the juvenile court's decision to terminate dependency jurisdiction and the terms of a visitation order for abuse of discretion. (*In re Brittany C.* (2011) 191 Cal.App.4th 1343, 1356; *Bridget A. v. Superior Court*, *supra*, 148 Cal.App.4th at p. 300.)

⁵ Given this conclusion, we need not consider Father's separate argument that reversal of the placement order would require reversal of the exit order.

Father maintains the juvenile court’s implicit finding that he has “the ability to pay” for supervision is not supported by substantial evidence. The Bureau’s position is that any error was invited by Father’s choice not to present any evidence at the October 2, 2015 family maintenance hearing. In fact, Father specifically chose to forego a contested hearing. “ ‘Under the doctrine of invited error, when a party by its conduct induces the commission of error, it may not claim on appeal that the judgment should be reversed because of that error.’ ” (*In re G.P.* (2014) 227 Cal.App.4th 1180, 1193.) “[T]he doctrine of invited error applies where a party, for tactical reasons, persuades the trial court to follow a particular procedure. The party is estopped from claiming that the procedure was unlawful.” (*In re Jaime R.* (2001) 90 Cal.App.4th 766, 772.)

Even if we assume Father did not forfeit the argument or invite error, his position fails on the merits.⁶ Father’s premise—that the Bureau had the burden to show his ability to pay for supervision—is unsupported by any authority. Father observes that, under the provisions of Article 25 of the Welfare and Institutions Code (§ 900 et seq.), a parent may be liable for certain costs of government support provided to a dependent child only if he or she has the ability to pay. The authority of a juvenile court to make orders upon termination of its jurisdiction is established by section 362.4. “ ‘When the juvenile court terminates its jurisdiction over a dependent child, section 362.4 authorizes it to make custody and visitation orders that will be transferred to an existing family court file and remain in effect until modified or terminated by the superior court.’ ” (*In re Chantal S.* (1996) 13 Cal.4th 196, 203; see § 302, subd. (d).)

Father suggests the legislative intent evident in Article 25 of the Welfare and Institutions Code precludes the juvenile court from requiring him to pay for the cost of postdependency supervised visits under section 362.4. We see nothing in the language of section 362.4 or Article 25 that indicates we should require a similar determination of a parent’s ability to pay the necessary costs of postdependency supervised visitation.

⁶ Given our conclusion on the merits of Father’s argument, we need not reach his ineffective assistance of counsel argument.

Unlike the support costs referenced in Article 25, the supervised visits ordered by the court under section 362.4 are, at least in part, for the benefit of Father, and the visits will take place *after* the termination of the dependency.

In making a visitation order, the juvenile court may place reasonable conditions on visitation. (*In re Chantal S.*, *supra*, 13 Cal.4th at p. 213.) The court's focus, under section 362.4, is the best interests of the child. (*In re John W.* (1996) 41 Cal.App.4th 961, 965, 973; *In re Jennifer R.* (1993) 14 Cal.App.4th 704, 712.) The court's requirement of professional supervision was reasonable in light of continuing significant concerns about Sierra's safety with Father. As Sierra's counsel recognized, the requirement that a neutral third party serve as a professional supervisor tends to alleviate concerns about Sierra's safety and visitation scheduling. We are aware of no authority suggesting a juvenile court may terminate its jurisdiction but nonetheless order the costs of supervised visitation to be paid by the state. Either Father or Mother had to bear that cost. We cannot say the juvenile court abused its discretion by requiring Father to bear the cost of the supervision necessitated by his own conduct. (Cf. *In re David D.* (1994) 28 Cal.App.4th 941, 953.) Mother, on the other hand, reunified with Sierra and bore the expense of meeting Sierra's daily needs.

Father's argument that visitation cannot be conditioned on a parent's fulfillment of financial obligations is no more compelling. Father argues that such a financial condition is not reasonable because it could render the visitation order illusory. He analogizes to family law cases holding a parent's visitation rights cannot be conditioned on payment of child support. (See, e.g., *Hastings v. Rigsbee* (Fl.Ct.App. 2004) 875 So.2d 772, 777.) But "[t]he family court is established to provide parents a forum in which to resolve, inter alia, private issues relating to the custody of and visitation with children. In that setting, *parents are presumed to be fit* and capable of raising their children. [Citation.] The juvenile court, by contrast, provides the state a forum to 'restrict parental behavior regarding children, . . . and . . . to remove children from the custody of their parents or guardians.' " (*In re Chantal S.*, *supra*, 13 Cal.4th at p. 201.)

Section 362.4 does not require a juvenile court to issue visitation orders on termination of jurisdiction. (§ 362.4 [juvenile court “may issue” visitation orders].) Here, the court exercised its discretion to permit visitation, but in light of Father’s failure to make progress on his case plan, made that visitation subject to two reasonable conditions: (1) supervision to ensure Sierra’s continued safety; and (2) Father’s payment of such supervision costs.

In re Chantal S. is persuasive here. Our Supreme Court held that a juvenile court may, when terminating its dependency jurisdiction, condition visitation on a parent’s participation in a counseling program. (*In re Chantal S.*, *supra*, 13 Cal.4th at pp. 200, 204) The father was also obligated to pay for therapeutic supervision of the visits with his daughter. (*Id.* at p. 202.) The court explained: “[T]here are situations in which a juvenile court may reasonably determine that continued supervision of the minor as a dependent child is not necessary for the child’s protection, and at the same time conclude that conditions on visitation are necessary to minimize, if not eliminate, the danger that visits might subject the minor to the same risk of physical abuse or emotional harm that previously led to the dependency adjudication. In such a situation, sections 362.4 and 362(c) authorize the juvenile court to issue an appropriate protective order conditioning custody or visitation on a parent’s participation in a counseling program.” (*Chantal S.*, at p. 204.)

If a juvenile court is empowered to order visitation conditioned on participation in counseling, we see no reason it cannot condition visitation on supervision paid for by the visiting parent. Father is correct that visitation benefits not only him but also Sierra. Should his ability to pay for supervision become an impediment to continued visitation, Father may seek the assistance of the family court to modify the custody and visitation order. (*In re Hirenia C.* (1993) 18 Cal.App.4th 504, 518.)

III. DISPOSITION

The April 24, 2015 and October 2, 2015 orders are affirmed.

Bruiniers, J.

We concur:

Jones, P.J.

Simons, J.

A145490, A146936